

1 Gregg McLean Adam, Bar No. 203436  
gregg@majlabor.com

2 Jonathan Yank, Bar No. 215495  
jonathan@majlabor.com

3 Jennifer S. Stoughton, Bar No. 238309  
jennifer@majlabor.com

4 **MESSING ADAM & JASMINE LLP**  
580 California Street, Suite 1600  
5 San Francisco, California 94104  
Telephone: 415.266.1800  
6 Facsimile: 415.266.1128

7 Attorneys for Relator-Plaintiff  
8 San Jose Police Officers' Association

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF SANTA CLARA

11  
12 THE PEOPLE OF THE STATE OF  
13 CALIFORNIA *ex rel.* SAN JOSE POLICE  
OFFICERS' ASSOCIATION,

14 *Plaintiff,*

15 v.

16 CITY OF SAN JOSE, and CITY COUNCIL  
17 OF SAN JOSE,

18 *Defendants.*

Case No. 1-13-CV-245503

**DECLARATION OF GREGG MCLEAN ADAM IN  
SUPPORT OF SAN JOSE POLICE OFFICERS'  
ASSOCIATION'S OPPOSITION TO  
APPLICATION TO INTERVENE**

Date: April 5, 2016

Time: 9:00 a.m.

Dept.: 7

Judge: Hon. Beth McGowen

19  
20 I, Gregg McLean Adam, declare and say:

21 1. I am an attorney licensed to practice before all courts of the State of California. I  
22 am an attorney with the firm of Messing Adam & Jasmine LLP ("Messing Adam"), attorneys of  
23 record for the San Jose Police Officers' Association ("the POA") in this matter. By virtue of that  
24 representation, I have personal knowledge of the facts set forth herein, and if called upon as a  
25 witness, I could and would testify competently to them.

26 2. In July 2011, I was one of the POA's chief negotiators when it met and conferred  
27 with the City concerning what ultimately became Measure B. To my best recollection, I attended  
28 almost every negotiation session between July and October 2011 and two sets of mediation in

1 November 2011 and February 2012. The POA and the San Jose Fire Fighters, IAFF Local 230  
2 met and conferred in coalition with the City. Every relevant meeting was attended jointly by  
3 representatives of both unions.

4 3. After Measure B passed, I was the counsel of record for the POA in *San Jose*  
5 *Police Officers' Association v. City of San Jose, et al.*, Santa Clara County Superior Court Case  
6 No. 1-12-CV-225926. Judge Patricia Lucas issued the final Statement of Decision on February  
7 20, 2014.

8 4. The City has appealed Judge Lucas's ruling and the POA has cross-appealed. As  
9 of this date, however, briefing has yet to be scheduled.

10 5. The applicants claim that the parties' Settlement Framework contemplates that  
11 "intervention is appropriate at this stage." (MPA iso Appl. at p. 13:1-2.) They reference the  
12 "Proposed Quo Warranto Implementation Plan" (City RJN, Exh. I.), which anticipated that Local  
13 230 may seek to intervene in the *quo warranto* action. (The Implementation Plan mistakenly  
14 characterized Local 230 as a potential "intervenor" when it should have said "co-relator.")  
15 Immediately after the Proposed *Quo Warranto* Implementation Plan was agreed to, I consulted  
16 with Deputy Attorney General Marc Nolan on the question of Local 230's potential intervention.  
17 Mr. Nolan indicated that Local 230 seeking permission to become a co-relator in this case would  
18 not be appropriate without it first filing an Application for Leave to Sue in *Quo Warranto* with the  
19 Attorney General. Mr. Nolan also explained that even though the POA's Application for Leave to  
20 Sue in *Quo Warranto* had been approved based on essentially the same claims, the pendency of  
21 the PERB action meant there could be no guarantee that an Application for Leave to Sue in *Quo*  
22 *Warranto* by Local 230 would be granted. I explained this to counsel for Local 230, Christopher  
23 Platten. Local 230 quickly determined that it would not seek to become a co-relator in this action.  
24 I believe all of these events occurred before the end of August 2015.

25 //

26 //

27 //

28 //

1           6. Following the announcement of the Settlement Framework in July 2015, there have  
2 been three hearings in this case: October 6, 2015 (trial setting conference); December 17, 2015  
3 (case review); and February 18, 2016 (case review).  
4

5           I declare under the penalty of perjury under the laws of the State of California that the  
6 foregoing is true and correct, and that this declaration was executed on March 23, 2016 at San  
7 Francisco, California.  
8

9  
10   
11 \_\_\_\_\_  
12 Gregg McLean Adam  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28